

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

No. C 10-03561 WHA

**SECOND CASE MANAGEMENT  
ORDER AND REFERENCE  
TO MAGISTRATE JUDGE FOR  
MEDIATION/SETTLEMENT**

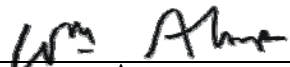
After a case management conference, the Court enters the following order pursuant to Rule 16 of the Federal Rules of Civil Procedure and Civil Local Rule 16-10:

1. By **AUGUST 6, 2015**, Oracle shall file a formal motion to supplement its pleadings and Google shall file a formal motion to preclude submitting the issue of willfulness to the jury and to determine whether the Court should follow the ruling of Chief Judge Hamilton in the *Oracle v. SAP* case. Both motions will be heard on the standard 35-day track. The briefs on the willfulness issue should also address whether the Court, in the exercise of its case management authority, can set a deadline for Oracle to elect statutory vs. actual damages.
2. By **AUGUST 21, 2015**, Dr. James Kearl shall provide his expert report and testimony from the *Apple v. Samsung* case to counsel herein for evaluation. Any motions to disqualify Dr. Kearl are due by **SEPTEMBER 10, 2015**.
3. The non-expert discovery cut-off date shall be **DECEMBER 4, 2015**.
4. Opening expert reports for issues on which a party has the burden of proof shall be due **DECEMBER 8, 2015**.

5. Opposition expert reports shall be due **JANUARY 7, 2016**.
  6. The parties' proposal (and therefore this order) made no allowance for reply reports.
  7. The expert discovery cut-off date shall be **JANUARY 21, 2016**.
  8. Dr. Kearl's Rule 706 Report shall be due **21 CALENDAR DAYS** after the last party report on damages. His deposition shall then be within **14 CALENDAR DAYS**. Any motions directed to his report shall be due **28 CALENDAR DAYS** after his report is filed. By **AUGUST 6, 2015**, counsel for Dr. James Kearl shall submit advise the Court whether this schedule will work for Dr. Kearl.
  9. This matter is hereby **REFERRED TO MAGISTRATE JUDGE PAUL SINGH GREWAL** for mandatory mediation/settlement.
  10. The trial will be set at a later date. Due to other cases already set in 2016, the most likely start dates will be March 28 or September 12, but counsel shall hold all dates in between for the time being.
  11. The parties should read and follow the procedures pertaining to damages reports, expert testimony, motion practice, discovery disputes, extensions, and filing procedures detailed in the initial Case Management Scheduling Order (Dkt. No. 56 ¶¶ 10–13, 17–21).
- The Court will likely defer ruling on Google's equitable defenses until after it has heard the evidence at trial, given that new evidence may possibly bear on the issues of equitable estoppel and laches. Google conceded at yesterday's hearing that laches cannot bar an actual damages claim brought within the three-year statute of limitations period, but argued that laches could still bar recovery of its profits under 17 U.S.C. 504(b). The parties shall please submit formal memoranda **NOT TO EXCEED FIVE PAGES**, double-spaced with no footnotes or attachments, setting forth their positions on this issue by **AUGUST 11, AT NOON**.

**IT IS SO ORDERED.**

Dated: July 31, 2015.

  
 WILLIAM ALSUP  
 UNITED STATES DISTRICT JUDGE